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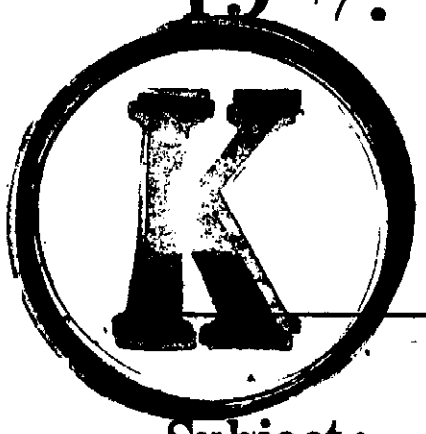
19 47.

File No. B Abkari & opium/47

Legal DEPARTMENT

B BRANCH



Subject:—

1) A Bill to amend the Bombay Abkari Act, 1879

2) A Bill to amend the opium Act 1879 in its Application to the province of Bombay.

P. 71F

L.A. Bill No. XII & XIII of 1947

Bom. Act. Nos XXIX & XXVI of 1947

File No. B. Abkari & Opium/47

Std. Sectt. Slip 24 B a.

557-B

Opinion of the R.L.A.

The proposed legislation is expendient and necessary, and is within the competence of the Provincial Legislature. The measures proposed by the Commissioner of Excise in paragraph 17 of his letter at p.10 are practicable.

2. It is necessary to re-enact Bom.VI of 1940 (possibly section 64nly) and Bom.IV of 1941 only. Bom. IX of 1941has repealed part IXB containing section 42E and section 43A of the Bombay Abkari Act, 1878. As pointed out by H.M. (Excise),(cf.portion'A' on P.3 ante), if it necessary to re-introduce section 42-E and presumably section 43A also(Cf paragraph 35 of Commissioner's letter at page 15 ante and clause 11 of the Bill at page 29 ante). It would therefore be necessary to repeal Bom.IX of 1941 and restore the provisions of part IXB containing section 42E, and and of section 43 A of the Bombay Abkari Act 1878,which were repealed by IX of 1941.

Sd/-

Remembrancer of Legal Affairs.

M.R.D.R
1-6-56
C.4

U.R. to R.D., No. 9359 ,dated them 23rd December 1946.

DM
8/1

Office of the E.L.A.

A revised draft of the Bill to amend the Bombay Abkari Act, 1878, is sent herewith.

2. Clause 2 provides for repeal of Bom.VI of 1940, Bom.IX of 1941 and Bom. XV of 1941 and clause 3 provides for re-enactment of certain provisions of Bom. VI of 1940 and Bom.XV of 1941. It is not necessary to re-enact section 7 of Bom. VI of 1940. It is also not necessary to re-enact the provisions of sections 10and 11 of Bom.XV of 1941. Section 10was inserted for the reason that Bom.VI of 1940 was not reserved for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935, and as such was ultra vires of the Province so far as it affected dangerous drugs under the Abkari Act, 1878, in view of the Madras High Court decision. Since this Bill will be reserved for consideration of the Governor General with reference to Section 107 (2), it is not necessary to re-enact section 10 of Bom.XV of 1941.

3. As regards amendment of section 6, it has been pointed out as separately that no amendment has been pointed out separately that no amendment of that section is necessary.

4. I have inserted a new section VII in the Abkari Act and Section 71 in the Opium Act in order to take power to the Government to empower any Abkari or opium officer to call for a declaration from persons in possession of intoxicants or opium. I think this will also facilitate their working of prohibition and is necessary.

5. With regard to amendment of section 39 proposed in clause 6 by the Commissioner of Excise at page 23, a provision in respect of officers of major railways and of these Air Department will fall in the Central field and the Province cannot legislate in respect thereof. With regard to officers of the Steamer and Motor Vehicles Department, it is not quite clear exactly what officers are intended to be roped in. The Administrative Department may therefore consider the position further and decide who exactly should be required to supply information under section 39.

6. As it is proposed to enhance the punishment of fine from Rs.1000/- to Rs.2000/- under section 43 evenn a First Class Magistrate or Presidency Magistrate would have no jurisdictions to inflict a heavy fine. In order to enable him to do so new section 43E is inserted in the Abkari Act giving special power to a First Class Magistrate or Presidency

Presidency Magistrate(vide clause 14 of the Bill). Similar provision is made in the opinion Bill(vide clause 5,new section 64.D.).

7. Clause 15 of the R.D. Bill:- Section 188 of the Bombay AbkariAct, is not a penal section and no reference to it is therefore necessary under section 53 as proposed by R.D.

8. Clause 16 of the R.D. draft:- Under section 54 an intoxicant, hemp or any articles, implements etc, are proposed to be compulsorily confiscated under an order of a Magistrate, Sub-section(1) of section 55 which provides for the option to pay fine in lieu of confiscation is now inconsistent with the provisions of section 54 as proposed to be amended. It has therefore been deleted, and a consequential change has been made in the proviso to section 55(2) (Vide clause 19).

9. I have also deleted the whole of section 61 which virtually saves sections 54-59 of the Cantonments Act. 1924(II of 1924). since in the the fourth year of prohibition the scheme of Government is that nobody should possess a drop of liquor, spirituous or otherwise, it will be necessary to delete section 61 from the Abkari Act, if not now,atleast later on. There is no ~~obj~~ objection to deleting it just now and allow the said provisions of the Cantonments Act to operate merely by abstaining from taking any action against the persons concerned. So far, however, as the legal position goes, there is no objection to delete section 61 just now.

10. The subject matter of the Bill falls under entires 31,2,37,and 38 in List II and entires 1,2,5,15,17,19 and 24 in List III inthe Seventh Schedule to the Government of India Act, 1935,Since the provisions of clause 3 which re-enacts certain provisions of Bom.XV of 1941 and clause 17 which seeks to insert new section 52 53A are repugnant to the provisions of the Bombay Abkari Actm 1878, which is an existing Indian law relating to entry 19 in List III and the Indian Evidence Act, 1872,which is an existing Indian law relating to entry 5 in List III, respectively it would be necessary to reserve the Bill for the consideration of the Governer General with reference to section 197(2) of the Government of India Act, 1935.

11. The Bill does not require any sanction or recommendation or affect any of the special responsibilites of the the Governer under section 52(1) of the constitution Act.

12. The R.D. will no doubt attach the requisite S.O.R. to the Bill.

13. A revised draft of the Bill to amend the opium Act, 1878, is also sent herewith.

14. The subject-matter of the Bill falls under entries 31,1,37 and 38 in List II and entries 19,1,2,and 24 in List III in the Seventh Schedule to the Government of India Act, 1935. Since the Provisions of clause 3 which empowers Government to prohibit the import, export etc. of opium are repugnant to the provisions of the opium Act which is a matter falling under entry 19in List III, it will be necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

15. The Bill does not require any sanction or recommendation or affect any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935.

16. The R.D. will no doubt attach the requisite S.O.R to this Bill also.

Sd/-

Secretary of Legal Affairs.

M.R.D.
1-6-46
C.4

U.O. to R.D.No. 653 ,dated the 18th January 1947.

No. 3743

Legal Department,
Bombay Castle, 14th April 1947.

From,
D.V. Vyas, Esquire, I.C.S.,
Secretary to the Government of Bombay.

To,
The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the opium Act, 1878, in its application to the Province of Bombay.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for being presented to His Excellency the Governor, an authentic copy of a Bill to amend the Opium Act, 1878, in its applicatbn to the Province of Bombay, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 10th March 1947 and on the 22nd March 1947, respectively. The amendments made by the Bombay Legislative council were agreed to by the Bombay Legislative Assembly on the 3rd April 1947.

2. None of the provisions of the the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause(a),(b),(c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay .

3. The subject-matter of the Bill falls under entires, 2, 31,37 and 33 in List II and entires 1,2,19,and 24 in List III in the Seventh Schedule to the Government of India Act, 1935.

4. As the provisions of clause3(i) which empowers Government to prohibit the import, export etc. of opium are repugnant to the provisions of the Opium Act, 1878,which is a matter falling under entry 19 in the Concurrent Legislative List, it would be necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

5. I am also to forward herewith six copies of each of the items Nos. 1to 3 and two copies of item No. 4 of

P.T.O.

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons. 2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council. 3. Bill as read for the third time and passed by the Bombay Legislative Council. 4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 19th Marchand 3rd April 1947 and of the Bombay Legislative council dated the 22nd March 1947.	the papers noted in the margin. The Bill was not referred to a Select Committee.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/-

Secretary to the Government of Bombay,

Legal Department.

Through

The Secretary to the Government of Bombay.
Revenue Department.

M.R.D.
1-6-56
C.S

No. 3743

Legal Department,
Bombay Castle, 14th April 1947.

From,
D.V. Vyas, Esquire, I.C.S.,
Secretary to the Government of Bombay.

To,
The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the opium Act, 1878, in its application to the Province of Bombay.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for being presented to His Excellency the Governor, an authentic copy of a Bill to amend the Opium Act, 1878, in its application to the Province of Bombay, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 10th March 1947 and on the 22nd March 1947, respectively. The amendments made by the Bombay Legislative council were agreed to by the Bombay Legislative Assembly on the 3rd April 1947.

2. None of the provisions of the the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause(a),(b),(c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay .

3. The subject-matter of the Bill falls under entries, 2, 31,37 and 38 in List II and entries 1,2,19,and 24 in List III in the Seventh Schedule to the Government of India Act, 1935.

4. As the provisions of clause3(i) which empowers Government to prohibi the import, export etc. of opium are repugnant to the provisions of the Opium Act, 1878,which is a matter falling under entry 19 in the Concurrent Legislative List, it would be necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

5. I am also to forward herewith six copies of each of the items Nos. 1to 3 and two copies of item No. 4 of

P.T.O.

No. G.S. 1336
Office of the Governor's Secretary,
Government House,
Bombay, 22nd April 1947.

From.
D.Symington, Esquire, C.I.E., I.C.S.,
Secretary to the Governor of Bombay.

To. The Secretary to the Bombay Legislative ~~Assembly~~ Council

Subject:- The opium(Bombay Amendment) Bill, 1947.

Sir,

With reference to the above Bill, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council on the 10th and 2nd March 1947 respectively, I am directed to state, for the information of the Honourable the ~~Speaker~~ President that as the provisions of clause3(i) which empowers Government to prohibit the import, export,etc, of opium are repugnant to the provisions of the opium Act, 1878, which is a matter falling under entry 19 in the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935, it will be necessary to reserve the Bill for the consideration of His Excellency the Governor-General with reference to section 107(2)of the Government of India Act. His Excellency is accordingly pleased, under section 75 of the Act, to declare that he reserves the Bill for the consideration of the Governor-General.

Your obedient servant,

Sd/- D. Symington.

No. G.S. 1336
Office of the Governor's Secretary,
Government House,
Bombay, 22nd April 1947.

Copy forwarded with compliments to:-

The Secretary to Government, Legal Department, with reference to his letter No. 3743, dated the 17th April 1947.

The Secretary to Government, Revenue Department, with reference to his endorsement No. 792-C/39, dated the 18th April 1947.

By order of the Governor of Bombay,

Sd/-
Secretary to the Governor of Bombay.

H.R.D.
1-6-56
C.4

No. 4223

Legal Department,
Bombay Castle, 25th April 1948.

From

D.V. Vyas, Esquire, I.C.S.,
Secretary to the Government of Bombay.

To

The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Bombay Abkari Act, 1878.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for being presented to His Excellency the Governor, an authentic copy of a Bill to amend the Bombay Abkari Act, 1878, which was read for the third time and passed at meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 19th March 1947 and on the 22nd March 1947, respectively. The amendment made by the Bombay Legislative Council was agreed to by the Bombay Legislative Assembly on the 3rd April 1947.

2. None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause(a), (b), (c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. The subject-matter of the Bill falls under entries 2, 31, 37 and 38 in List II and entries, 1, 2, 5, 15, 17, 19 and 24 in List III in the Seventh Schedule to the Government of India Act, 1935.

4. As the provisions of clause 3 which re-enacts certain provisions of Bom. XV of 1941 and clause 18 which seeks to insert new section 53A are repugnant to the provisions of the Bombay Abkari Act, 1878, which is an existing Indian law relating to entry 19 in the Concurrent Legislative List and the Indian Evidence Act, 1872, which is an existing Indian law relating to entry 5 in the said Concurrent Legislative List, respectively, it would be necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

5. I am also to forward herewith six copies of

P.T.O.

1 Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	each of the items Nos. 1 to 3 and two copies of item No. 4 of the Papers noted in the margin.
2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.	
3. Bill as read for the third time and passed by the Bombay Legislative Council.	
4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 28th February, 10th March and 3rd April 1947 and of the Bombay Legislative council dated the 22nd March 1947.	

The Bill was not referred to a Select Committee.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/-
25-4.

Secretary to the Government of Bombay,

Legal Department.

Through,

The Secretary to the Government of Bombay,
Revenue Department.

M.R.D.
1-6-96
C.4

No. G.S. 1459
Office of the Governor's Secretary,
Government House,
Bombay, 30th April 1947.

From

D. Symington, Esquire, C.I.E., I.C.S.,
Secretary to the Governor of Bombay.

To,

The Secretary to the Bombay Legislative Assembly
Council.

Subject:- The Bombay Abkari (Amendment)
Bill, 1947.

Sir,

With reference to the above Bill, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council on the 10th and 22nd March 1947 respectively, I am directed to state, for the information of the Honourable the Speaker,
President
that as the provisions of clause 3 which re-enacts certain provisions of Bom. XV of 1941 and clause 18 which seeks to insert new section 53 A are repugnant to the provisions of the Bombay Abkari Act, 1878, which is an existing Indian law relating to entry 19 in the concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935, and the Indian Evidence Act, 1872, which is an existing Indian law relating to entry 5 in the said concurrent Legislative List, respectively, it will be necessary to reserve the Bill for the consideration of His Excellency the Governor-General with reference to section 107(2) of the Government of India Act, 1935. His Excellency the Governor is accordingly pleased, under section 75 of the Act, to declare that he reserve the Bill for the consideration of the Governor-General.

Your obedient servant.,

Sd/- D. Symington.
for Secretary to the Governor of Bombay.

No. G.S. 1459
Office of the Governor's Secretary,
Government House,
Bombay, 30th April 1947.

Copy forwarded with compliments to:-
The Secretary to Government, Legal Department, with reference his letter no. 4223, dated the 29th April 1947.
The Secretary to Government, Revenue Department, with reference to his endorsement No. 792-C/39/20336, dated the 29th April 1947.

By order of the Governor of Bombay,

Sd/-
Secretary to the Governor of Bombay.

M.R.D.
1-6-66

No.G.S.1802
Office of the Governor's Secretary,
Government House,
Bombay , 26th May 1947.

From
D. Symington, Esquire, C.I.E., I.C.S.,
Secretary to the Governor of Bombay,

To
The Secretary to Government,
Legal Department.

Subject:- The Opium(Bombay Amendment)
Bill, 1947.

Sir,

With reference to the correspondence resting with this office letter No. G.S. 1725, dated the 19th May 1947, I am directed to forward herewith the authentic copy of the Opium (Bombay Amendment)Bill,1947, with His Excellency the Governor-General's assent signified thereon.

Your obedient servant,

Sd/-

For secretary to the Governor of Bombay.

M.R.D.
1-6-56
C.A.

No. G.S. 1905
Office of the Governor's Secretary,
Government House,
Bombay, 3rd June 1947.

From

D. Symington, Esquire, C.I.E., I.C.S.,
Secretary to the Governor of Bombay,

To

The Secretary to Government,
Legal Department.

Subject:- The Bombay Abkari (Amendment)
Bill, 1947.

Sir,

With reference to the correspondence resting with this Office Letter No. G.S. 1803, dated the 26th May 1947, I am directed to forward herewith the authentic copy of the Bombay Abkari (Amendment) Bill, 1947, with His Excellency the Governor-General's assent signified thereon.

Your obedient servant,

Sd/-

For Secretary to the Government of Bombay.

N.R.D.
1-6-56
C.4

Bills.

A Bill to amend the Bombay Abkari Act,1878.

GOVERNMENT OF BOMBAY,
Legal Department.
Resolution No. 1436
Bombay Castle, 12th February 1947.

Memorandum from the Revenue Department, No. 792-C/39,dated the 10th February 1947:- Transferring for necessary action, the papers relating to a Bill to amend the Bombay Abkari Act, 1878.

RESOLUTION:- The Bill with the statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 12th February 1947, as Bill No. XII of 1947.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani(in Urdu and Devanagari scripts) and the translations should be published in the Bombay Government Gazette on the 14th February 1947.

3. The dates of the various publications should be reported to the Secretary to the Bombay Legislative Assembly.

By order of the Governor of Bombay,

Sd/-
K.M. CHITNAVIS,
Assistant Remembrancer of Legal Affairs.

To

The Manager , Government Central Press, Bombay
(with the Bill and the Statement of objects and Reasons and with a request that 230 Gazette copies of the Bill and the S.O.R. may be forwarded to the Secretary to the Bombay Legislative Assembly for distribution to the ~~xx~~members of the Bombay Legislative Assembly and 25copies for the use of the Legal Department),
The Revenue Department,
*The Oriental Translator to Government,
The Secretary to the Bombay Legislative Assembly,
The Director of Publicity, Bombay.
} with a copy of the Bill and S.O.R.

* with five extra copies of the Bill.

H.R.D.
1-6-56
C.4

Bills.

A Bill to amend the opium Act. 1878, in its application to the Province of Bombay.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 1837
Bombay Castle, 12th February 1947.

Memorandum from the Revenue Department, No. 798-C/39, dated the 10th February 1947:- Transferring for necessary action, the papers relating to a Bill to amend the Opium Act, 1878, in its ~~application~~ application to the Province of Bombay.

RESOLUTION:- The Bill with the statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 12th February 1947, as Bill No. XXIX of 1947.

2. The Bill and the statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari Scripts) and the translations should be published in the Bombay Government Gazette on the 14th February 1947.

3. The dates of the various publications should be reported to the Secretary to the Bombay Legislative Assembly.

By order of the Governor of Bombay.

Sd/-
K.M. CHITNAVIS,
Assistant Remembrancer of Legal Affairs.

To,

The Manager, Government Central Press, Bombay (with the Bill and the Statement of Objects and Reasons and with a request that 230 Gazette copies of the Bill and the G.O.R. may be forwarded to the Secretary to the Bombay Legislative Assembly for distribution to the Members of the Bombay Legislative Assembly and 25 copies for the use of the Legal Department],
The Revenue Department.
*The Oriental Translater to Government,) With a copy
The Secretary to the Bombay Legislative) of the Bill
Assembly,) and S.O.R.
The Director of Publicity, Bombay,)

*With five extra copies of the Bill.

M.R.D.
1-6-96
C.A

Article.
Publication of the Opium (Bombay Amendment) Act, 1947.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 3224
Bombay Castle, 24th May 1947.

Letter to the Secretary to the Governor, No. 2743 dated the 17th April 1947.

Letter from the Secretary to the Governor, No.S. 1725 dated the 19th May 1947:-

"With reference to the correspondence resting with my endorsement No. G.C. 1336, dated the 22nd April 1947, I am directed to inform you that intimation has been received from the Secretary to the Governor General (Public) that His Excellency the Governor General has assented to the Opium(Bombay Amendment) Bill, 1947, on the 17th May 1947."

RESOLVED:- The law should be published as Bombay Act, No. XXVI of 1947 in the Bombay Government Gazette, dated the 21st May 1947.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani(in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department with reference to the consultation from that Department No. 702-C/39, dated the 10th February 1947.

By order of the Governor of Bombay,

Sd/-
P.M.Lad,
Secretary to Government.

To

The Manager, Government Central Press, Bombay(with a copy of the Act and with a request that XXXXXX copies of the of the Act may be forwarded to the Legal Department)
The Revenue Department,
The Oriental Translator to Government,) With a
The Secretary to the Bombay Legislative Council,) copy
The Secretary to the Bombay Legislative Assembly,) of the
The Director of Publicity, Bombay,) Act

With five extra copies of the Act.

M.R.D.
1-6-56
C.4

Acts.
Publication of the Bombay Abkari (Amendment) Act, 1947.

GOVERNMENT OF BOMBAY.
Legal Department
Resolution No. 5525
Bombay Castle, 29th May 1947.

Letter to the Secretary to the Governor, No. 4223 dated the 25th April 1947.

Letter from the Secretary to the Governor, No. S.S. 1809 dated the 26th May 1947.

With reference to the correspondence resting with my endorsement No. G.S. 1499, dated the 30th April 1947, I am directed to inform your that intimation has been received from the Secretary to the Governor General (Public) that His Excellency the Governor General has assented to the Bombay Abkari (Amendment) Bill, 1947, on the 23rd May 1947.

RESOLUTION:- The law should be published as Bombay Act No. XXIX of 1947 in the Bombay Government Gazette, dated the 29th May 1947.

2. The Act should be translated into Marathi, Gujarti, Kannadeand- and Hindustani (in Urdu and Devanagari Scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department with reference to the memorandum from that Department No. 792-C/39, dated the 10th February 1947.

By order of the Governor of Bombay.

Sd/-
P.M. LAD,
Secretary to Government.

To
The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department),
The Revenue Department,) with a
*The Oriental Translator to Government,) copy
The Secretary to the Bombay Legislative Council,) of
The Secretary to the Bombay Legislative Assembly,) the
The Director of Publicity, Bombay.) Act.

*With five extra copies of the Act.

H.R.D.
1-6-96
C.A

[To be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. XIII OF 1947.

A Bill to amend the Opium Act, 1878, in its application to the Province of Bombay.

WHEREAS it is expedient in the interest of the Province of Bombay to introduce, promote, enforce and carry into effect the policy of prohibition ;

AND WHEREAS it is necessary to amend the Opium Act, 1878, in its application to the Province of Bombay for carrying out the said purposes ; It is hereby enacted as follows :—

I of 1878.

1. This Act may be called the Opium (Bombay Amendment) Act, 1947. Short title.

I of 1878.

2. After section 3 of the Opium Act, 1878 (hereinafter referred to as the said Act), the following new section shall be inserted, namely :— Insertion of new section 3A in Act I of 1878.

"3A. (*1*) When opium has been imported, exported, transported, sold or is possessed by any person on account of any other person and such other person knows or has reason to believe that such import, export, transport, sale or possession is on his account the opium shall, for the purposes of this Act, be deemed to have been imported, exported, transported or sold by, or to be in possession of, such other person. Import, export, etc. of opium by one person on account of another.

(*2*) Nothing in sub-section (*1*) shall absolve any person who imports, exports, transports, sells or possesses opium on account of another person, from

liability to any punishment under this Act for the unlawful import, export, transport, sale or possession of the opium."

Amendment of section 5 of Act I of 1878.

3. In section 5 of the said Act, for the words "permit absolutely or" the words "prohibit or permit" shall be substituted.

Amendment of section 9 of Act I of 1878.

4. In section 9 of the said Act, for the portion beginning with the words "shall, on conviction" and ending with the words "have been sentenced" the following shall be substituted, namely:—

"shall, on conviction, be punishable—

(*i*) for a first offence with imprisonment for a term which may extend to six months and with fine which may extend to Rs. 1,000:

Provided that in the absence of special reasons to the contrary mentioned in the judgment of the court, such imprisonment shall not be less than three months and fine shall not be less than Rs. 500;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to Rs. 2,000;

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than 6 months and fine shall not be less than Rs. 1,000;

(*iii*) for a third or subsequent offence, with imprisonment for a term which may extend to two years and with fine which may extend to Rs. 2,000:

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the court, imprisonment shall not be less than nine months and fine shall not be less than Rs. 1000."

Insertion of new sections 9A, 9B, 9C and 9D in Act I of 1878.

5. After section 9 of the said Act, the following sections shall be inserted, namely:—

Punishment for allowing premises to be used for commission of offence.

"9A. Whoever, being the owner or occupier or having the use of any house, room, enclosure, space, vessel, vehicle, or place knowingly permits it to be used for the commission by any other person of an offence punishable under section 9 shall, on conviction, be punishable with imprisonment for a term which may extend to two years and with fine which may extend to Rs. 2,000.

Attempts and abetments.

9B. (*1*) Whoever attempts to commit an offence punishable under this Act, or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence, shall, on conviction, be punishable with the punishment provided for the offence.

(2) Whoever abets an offence punishable under this Act, shall, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, on conviction, be punishable with the imprisonment provided for the offence.

XLV of 1860.

Security for abstaining from commission of certain offences.

9C. (1) Whenever any person is convicted of any offence punishable under section 9, 9A or 9B and the Magistrate convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under those sections, the Magistrate may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as the Magistrate thinks fit to fix.

(2) The bond shall be in the form contained in the Schedule hereto annexed and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as may be, apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of the said Code.

V of 1898.

(3) If the conviction is set aside on appeal or in revision, the bond so executed shall become void.

(4) An order under this section may also be made by an appellate Court, or by the High Court when exercising its powers of revision.

Special provision regarding fine.

9D. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Presidency Magistrate or any Magistrate of the First Class to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening the provisions of section 9 or 9A."

V of 1898.

6. In section 11 of the said Act—

Amendment of section 11 of Act I of 1878.

(i) for the words "liable to confiscation" where they occur for the first time, the word "confiscated" shall be substituted;

(ii) for the words "liable to confiscation" where they occur for the second time, the words "in respect of which the offence has been committed" shall be substituted; and

(iii) for the words "liable to confiscation" where they occur for the third time, the word "confiscated" shall be substituted.

7. In section 12 of the said Act, the first and second paragraphs shall be deleted.

Amendment of section 12 of Act I of 1878.

Insertion of new section 13A in Act I of 1878.

8. After section 13 of the said Act, the following new section shall be inserted, namely :—

Power to obtain information.

"13A. (*1*) The Provincial Government or any Officer specially empowered by it in this behalf may by order require any person to furnish to any specified authority or person any such information in his possession concerning any opium as may be specified in the order.

(*2*) If any person fails to furnish any information in compliance with the order made under sub-section (*1*) or furnishes false information, he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500."

Addition of Schedule to Act I of 1878.

9. To the said Act, the following Schedule shall be added :—

"SCHEDULE.

Bond to abstain from the Commission of Offences under the Opium Act, 1878.

(*See* section 9C.)

Whereas I (name)
inhabitant of (place)
have been called upon to enter into a bond to abstain from the commission of offences under section 9, section 9A and section 9B of the Opium Act, 1878, for the term of , I hereby bind myself not to commit any such offence during the said term, and, in case of my making default therein, I hereby bind myself to forfeit to His Majesty the sum of rupees

Dated this day of 19

(Signature).

(Where a bond with sureties is to be executed, *add*)

We do hereby declare ourselves sureties for the above-named that he will abstain from the commission of offences under section 9, section 9A and section 9B of the Opium Act, 1878, during the said term ; and in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the sum of rupees

Dated this day of 19

(Signature)."

STATEMENT OF OBJECTS AND REASONS.

As it is found that the penalties prescribed under the Opium Act, 1878, are not sufficiently deterrent, it is proposed to amend the Act so as to facilitate the enforcement of control during the period preparatory to complete prohibition and to enhance the penalties effectively.

Dated 10th February 1947.

(Signed) L. M. PATIL.

By order of the Governor of Bombay,

K. M. CHITNVIS,
Assistant Remembrancer of Legal Affairs.

Bombay, dated 12th February 1947.

D'S Bk Hb 299—2

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XIII OF 1947.

A Bill to amend the Opium Act, 1878, in its application to the Province of Bombay.

(As read for the third time and passed by the Legislative Assembly on the 10th March 1947.)

WHEREAS it is expedient in the interest of the Province of Bombay to introduce, promote, enforce and carry into effect the policy of prohibition;

AND WHEREAS it is necessary to amend the Opium Act, 1878, in its application to the Province of Bombay for carrying out the said purposes; It is hereby enacted as follows:—

I of 1878.

1. This Act may be called the Opium (Bombay Amendment) Act, 1947. Short title.

I of 1878

2. After section 3 of the Opium Act, 1878 (hereinafter referred to as the said Act), the following new section shall be inserted, namely:— Insertion of new section 3A in Act I of 1878.

"3A. (*1*) When opium has been imported, exported, transported, sold or is possessed by any person on account of any other person and such other person knows or has reason to believe that such import, export, transport, sale or possession is on his account the opium shall, for the purposes of this Act, be deemed to have been imported, exported, transported or sold by, or to be in possession of, such other person. Import, export, etc. of opium by one person on account of another.

(*2*) Nothing in sub-section (*1*) shall absolve any person who imports, exports, transports, sells or possesses opium on account of another person, from liability to any punishment under this Act for the unlawful import, export, transport, sale or possession of the opium."

Amendment of section 5 of Act I of 1878.

3. In section 5 of the said Act—

(*i*) for the words "permit absolutely or" the words "prohibit or permit" shall be substituted;

(*ii*) in clause (*a*) after the word "possession" insert "or use";

(*iii*) delete the word 'and' at the end of clause (*c*);

(*iv*) after clause (*d*), insert the following, namely:—

"(*e*) the carrying out generally of the policy of prohibition."

Amendment of section 9 of Act I of 1878.

4. In section 9 of the said Act, for the portion beginning with the words "shall, on conviction" and ending with the words "have been sentenced" the following shall be substituted, namely:—

"shall, on conviction, be punishable—

(*i*) for a first offence with imprisonment for a term which may extend to six months and with fine which may extend to Rs. 1,000:

Provided that in the absence of special reasons to the contrary mentioned in the judgment of the court, such imprisonment shall not be less than three months and fine shall not be less than Rs. 500;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to Rs. 2,000:

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than 6 months and fine shall not be less than Rs. 1,000;

(*iii*) for a third or subsequent offence, with imprisonment for a term which may extend to two years and with fine which may extend to Rs. 2,000:

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the court, imprisonment shall not be less than nine months and fine shall not be less than Rs. 1,000."

Insertion of new sections 9A, 9B, 9C and 9D in Act I of 1878.

5. After section 9 of the said Act, the following sections shall be inserted, namely:—

Punishment for allowing premises to be used for commission of offence.

"9A. Whoever, being the owner or occupier or having the use of any house, room, enclosure, space, vessel, vehicle, or place knowingly permits it to be used for the commission by any other person of an offence punishable under section 9 shall, on conviction, be punishable with imprisonment for a term which may extend to two years and with fine which may extend to Rs. 2,000.

Attempts and abetments.

9B. (*1*) Whoever attempts to commit an offence punishable under this Act, or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence, shall, on conviction, be punishable with the punishment provided for the offence.

(2) Whoever abets an offence punishable under this Act, shall, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, on conviction, be punishable with the imprisonment provided for the offence.

XLV of 1860.

Security for abstaining from commission of certain offences.

9C. (1) Whenever any person is convicted of any offence punishable under section 9, 9A or 9B and the Magistrate convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under those sections, the Magistrate may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as the Magistrate thinks fit to fix.

(2) The bond shall be in the form contained in the Schedule hereto annexed and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as may be, apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of the said Code.

V of 1898.

(3) If the conviction is set aside on appeal or in revision, the bond so executed shall become void.

(4) An order under this section may also be made by an appellate Court, or by the High Court when exercising its powers of revision.

Special provision regarding fine.

9D. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Presidency Magistrate or any Magistrate of the First Class to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening the provisions of section 9 or 9A."

V of 1898.

6. In section 11 of the said Act—

Amendment of section 11 of Act I of 1878.

(i) for the words "liable to confiscation" where they occur for the first time, the word "confiscated" shall be substituted;

(ii) for the words "liable to confiscation" where they occur for the second time, the words "in respect of which the offence has been committed" shall be substituted; and

(iii) for the words "liable to confiscation" where they occur for the third time, the word "confiscated" shall be substituted.

Amendment of section 12 of Act I of 1878.

7. In section 12 of the said Act, the first and second paragraphs shall be deleted.

Insertion of new section 13A in Act I of 1878.

8. After section 13 of the said Act, the following new section shall be inserted, namely :—

Power to obtain information.

"13A. (*1*) The Provincial Government or any Officer specially empowered by it in this behalf may by order require any person to furnish to any specified authority or person any such information in his possession concerning any opium as may be specified in the order.

(*2*) If any person fails to furnish any information in compliance with the order made under sub-section (*1*) or furnishes false information, he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500."

Addition of Schedule to Act I of 1878.

9. To the said Act, the following Schedule shall be added :—

"SCHEDULE.

Bond to Abstain from the Commission of offences under the Opium Act, 1878.

(*See* section 9C.)

Whereas I (name)
inhabitant of (place)
have been called upon to enter into a bond to abstain from the commission of offences under section 9, section 9A and section 9B of the Opium Act, 1878, for the term of , I hereby bind myself not to commit any such offence during the said term, and, in case of my making default therein, I hereby bind myself to forfeit to His Majesty the sum of rupees

Dated this day of 19

(Signature).

(Where a bond with sureties is to be executed, *add*)

We do hereby declare ourselves sureties for the above-named that he will abstain from the commission of offences under section 9, section 9A and section 9B of the Opium Act, 1878, during the said term ; and in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the sum of rupees

Dated this day of 19

(Signature

STATEMENT OF OBJECTS AND REASONS.

As it is found that the penalties prescribed under the Opium Act, 1878, are not sufficiently deterrent, it is proposed to amend the Act so as to facilitate the enforcement of control during the period preparatory to complete prohibition and to enhance the penalties effectively.

Dated 10th February 1947.

L. M. PATIL.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XIII OF 1947]

(As read for the third time and passed by the Legislative Assembly on the 10th March 1947.)

A Bill to amend the Opium Act, 1878, in its application to the Province of Bombay

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[Mr. M. L. Patil, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XIII OF 1947.

A Bill to amend the Opium Act, 1878, in its application to the Province of Bombay.

(As read for the third time and passed by the Legislative Assembly on the 10th March 1947.)

(As read for the third time and passed with amendments by the Legislative Council on the 22nd March 1947.)

WHEREAS it is expedient in the interest of the Province of Bombay to introduce, promote, enforce and carry into effect the policy of prohibition ;

AND WHEREAS it is necessary to amend the Opium Act, 1878, in its application to the Province of Bombay for carrying out the said purposes ; It is hereby enacted as follows :—

I of 1878.

1. This Act may be called the Opium (Bombay Amendment) Act, 1947. Short title.

2. After section 3 of the Opium Act, 1878 (hereinafter referred to as the said Act), the following new section shall be inserted, namely :— Insertion of new section 3A in Act I of 1878.

I of 1878.

"3A. (*1*) When opium has been imported, exported, transported, sold or is possessed by any person on account of any other person and such other person knows or has reason to believe that such import, export, transport, sale or possession is on his account the opium shall, for the purposes of this Act, be deemed to have been imported, exported, transported or sold by, or to be in possession of, such other person. Import, export, etc. of opium by one person on account of another.

(*2*) Nothing in sub-section (*1*) shall absolve any person who imports, exports, transports, sells or possesses opium on account of another person, from liability to any punishment under this Act for the unlawful import, export, transport, sale or possession of the opium."

Bk Hb 375—1

Amendment of section 5 of Act I of 1878.

3. In section 5 of the said Act—

(*i*) for the words "permit absolutely or" the words "prohibit or permit" shall be substituted;

(*ii*) in clause (*a*) after the word "possession" insert "or use";

(*iii*) delete the word 'and' at the end of clause (*c*);

(*iv*) after clause (*d*), insert the following, namely :—

"(*e*) the carrying out generally of the policy of prohibition."

Amendment of section 9 of Act I of 1878.

4. In section 9 of the said Act,—

(*i*) in clause (*a*), after the word "possesses" the words "or uses" shall be inserted; and

(*ii*) for the portion beginning with the words "shall, on conviction" and ending with the words "have been sentenced" the following shall be substituted, namely :—

"shall, on conviction, be punishable—

(*i*) for a first offence with imprisonment for a term which may extend to six months and with fine which may extend to Rs. 1,000 :

Provided that in the absence of special reasons to the contrary mentioned in the judgment of the court, such imprisonment shall not be less than three months and fine shall not be less than Rs. 500 ;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to Rs. 2,000 :

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than six months and fine shall not be less than Rs. 1,000 ;

(*iii*) for a third or subsequent offence, with imprisonment for a term which may extend to two years and with fine which may extend to Rs. 2,000 :

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than nine months and fine shall not be less than Rs. 1,000."

Insertion of new sections 9A, 9B, 9C and 9D in Act I of 1878.

5. After section 9 of the said Act, the following sections shall be inserted, namely :—

Punishment for allowing premises to be used for commission of offence.

"9A. Whoever, being the owner or occupier or having the use of any house, room, enclosure, space, vessel, vehicle, or place knowingly permits it to be used for the commission by any other person of an offence punishable under section 9 shall, on conviction, be punishable with imprisonment for a term which may extend to two years and with fine which may extend to Rs. 2,000.

Attempts and abetments.

9B. (*1*) Whoever attempts to commit an offence punishable under this Act, or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence, shall, on conviction, be punishable with the punishment provided for the offence.

(2) Whoever abets an offence punishable under this Act, shall, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, on conviction, be punishable with the imprisonment provided for the offence.

XLV of 1860.

Security for abstaining from commission of certain offences.

9C. (1) Whenever any person is convicted of any offence punishable under section 9, 9A or 9B and the Magistrate convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under those sections, the Magistrate may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as the Magistrate thinks fit to fix.

(2) The bond shall be in the form contained in the Schedule hereto annexed and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as may be, apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of the said Code.

V of 1898.

(3) If the conviction is set aside on appeal or in revision, the bond so executed shall become void.

(4) An order under this section may also be made by an appellate Court, or by the High Court when exercising its powers of revision.

Special provision regarding fine.

9D. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Presidency Magistrate or any Magistrate of the First Class to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening the provisions of section 9 or 9A."

V of 1898.

6. In section 11 of the said Act—

Amendment of section 11 of Act I of 1878.

(i) for the words "liable to confiscation" where they occur for the first time, the word "confiscated" shall be substituted;

(ii) for the words "liable to confiscation" where they occur for the second time, the words "in respect of which the offence has been committed" shall be substituted; and

(iii) for the words "liable to confiscation" where they occur for the third time, the word "confiscated" shall be substituted.

Amendment of section 12 of Act I of 1878.

7. In section 12 of the said Act, the first and second paragraphs shall be deleted.

Insertion of new section 13A in Act I of 1878.

8. After section 13 of the said Act, the following new section shall be inserted, namely :—

Power to obtain information.

"13A. (*1*) The Provincial Government or any Officer specially empowered by it in this behalf may by order require any person to furnish to any specified authority or person any such information in his possession concerning any opium as may be specified in the order.

(*2*) If any person fails to furnish any information in compliance with the order made under sub-section (*1*) or furnishes false information, he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500."

Addition of Schedule to Act I of 1878.

9. To the said Act, the following Schedule shall be added :—

"SCHEDULE.

Bond to abstain from the commission of offences under the Opium Act, 1878.

(*See* section 9C.)

Whereas I (name)
inhabitant of (place)
have been called upon to enter into a bond to abstain from the commission of offences under section 9, section 9A and section 9B of the Opium Act, 1878, for the term of , I hereby bind myself not to commit any such offence during the said term, and, in case of my making default therein, I hereby bind myself to forfeit to His Majesty the sum of rupees

Dated this day of 19

(Signature).

(Where a bond with sureties is to be executed, *add*)

We do hereby declare ourselves sureties for the above-named that he will abstain from the commission of offences under section 9, section 9A and section 9B of the Opium Act, 1878, during the said term ; and in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the sum of rupees

Dated this day of 19 .

(Signature)."

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XIII OF 1947]

(As read for the third time and passed by the Legislative Assembly on the 10th March 1947.)

(As read for the third time and passed with amendments by the Legislative Council on the 22nd March 1947.)

A Bill to amend the Opium Act, 1878, in its application to the Province of Bombay

---

[Mr. L. M. PATIL, M.L.A.]

D's Bk Hb 375—2

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XIII OF 1947.

A Bill to amend the Opium Act, 1878, in its application to the Province of Bombay.

(As read for the third time and passed by the Legislative Assembly on the 10th March 1947.)

(As read for the third time and passed with amendments by the Legislative Council on the 22nd March 1947.)

(Amendments made by the Legislative Council were agreed to by the Legislative Assembly on the 3rd April 1947.)

WHEREAS it is expedient in the interest of the Province of Bombay to introduce, promote, enforce and carry into effect the policy of prohibition;

AND WHEREAS it is necessary to amend the Opium Act, 1878, in its application to the Province of Bombay for carrying out the said purposes; It is hereby enacted as follows:—

I of 1878.

1. This Act may be called the Opium (Bombay Amendment) Act, 1947. Short title.

I of 1878.

2. After section 3 of the Opium Act, 1878 (hereinafter referred to as the said Act), the following new section shall be inserted, namely:— Insertion of new section 3A in Act I of 1878.

"3A. (*1*) When opium has been imported, exported, transported, sold or is possessed by any person on account of any other person and such other person knows or has reason to believe that such import, export, transport, sale or possession is on his account the opium shall, for the purposes of this Act, be deemed to have been imported, exported, transported or sold by, or to be in possession of, such other person. Import, export, etc. of opium by one person on account of another.

(*2*) Nothing in sub-section (*1*) shall absolve any person who imports, exports, transports, sells or possesses opium on account of another person, from liability to any punishment under this Act for the unlawful import, export, transport, sale or possession of the opium."

Amendment of section 5 of Act I of 1878.

3. In section 5 of the said Act—

(*i*) for the words "permit absolutely or" the words "prohibit or permit" shall be substituted;

(*ii*) in clause (*a*) after the word "possession" insert "or use";

(*iii*) delete the word 'and' at the end of clause (*c*);

(*iv*) after clause (*d*), insert the following, namely:—

"(*e*) the carrying out generally of the policy of prohibition."

Amendment of section 9 of Act I of 1878.

4. In section 9 of the said Act,—

(*i*) in clause (*a*), after the word "possesses" the words "or uses" shall be inserted; and

(*ii*) for the portion beginning with the words "shall, on conviction" and ending with the words "have been sentenced" the following shall be substituted, namely:—

"shall, on conviction, be punishable—

(*i*) for a first offence with imprisonment for a term which may extend to six months and with fine which may extend to Rs. 1,000:

Provided that in the absence of special reasons to the contrary mentioned in the judgment of the court, such imprisonment shall not be less than three months and fine shall not be less than Rs. 500;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to Rs. 2,000:

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than six months and fine shall not be less than Rs. 1,000;

(*iii*) for a third or subsequent offence, with imprisonment for a term which may extend to two years and with fine which may extend to Rs. 2,000:

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than nine months and fine shall not be less than Rs. 1,000."

Insertion of new sections 9A, 9B, 9C and 9D in Act I of 1878.

5. After section 9 of the said Act, the following sections shall be inserted, namely:—

Punishment for allowing premises to be used for commission of offence.

"9A. Whoever, being the owner or occupier or having the use of any house, room, enclosure, space, vessel, vehicle, or place knowingly permits it to be used for the commission by any other person of an offence punishable under section 9 shall, on conviction, be punishable with imprisonment for a term which may extend to two years and with fine which may extend to Rs. 2,000.

Attempts and abetments.

9B. (*1*) Whoever attempts to commit an offence punishable under this Act, or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence, shall, on conviction, be punishable with the punishment provided for the offence.

(2) Whoever abets an offence punishable under this Act, shall, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, on conviction, be punishable with the imprisonment provided for the offence.

XLV of 1860.

Security for abstaining from commission of certain offences.

9C. (1) Whenever any person is convicted of any offence punishable under section 9, 9A or 9B and the Magistrate convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under those sections, the Magistrate may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as the Magistrate thinks fit to fix.

(2) The bond shall be in the form contained in the Schedule hereto annexed and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as may be, apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of the said Code.

V of 1898.

(3) If the conviction is set aside on appeal or in revision, the bond so executed shall become void.

(4) An order under this section may also be made by an appellate Court, or by the High Court when exercising its powers of revision.

Special provision regarding fine.

9D. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Presidency Magistrate or any Magistrate of the First Class to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening the provisions of section 9 or 9A."

V of 1898.

6. In section 11 of the said Act—

Amendment of section 11 of Act I of 1878.

(i) for the words "liable to confiscation" where they occur for the first time, the word "confiscated" shall be substituted;

(ii) for the words "liable to confiscation" where they occur for the second time, the words "in respect of which the offence has been committed" shall be substituted; and

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Amendmen of section 12 of Act I of 1878.

7. In section 12 of the said Act, the first and second paragraphs shall be deleted.

Insertion of new section 13A in Act I of 1878.

8. After section 13 of the said Act, the following new section shall be inserted, namely :—

Power to obtain information.

"13A. (*1*) The Provincial Government or any Officer specially empowered by it in this behalf may by order require any person to furnish to any specified authority or person any such information in his possession concerning any opium as may be specified in the order.

(*2*) If any person fails to furnish any information in compliance with the order made under sub-section (*1*) or furnishes false information, he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500."

Addition of Schedule to Act I of 1878.

9. To the said Act, the following Schedule shall be added :—

"SCHEDULE.

Bond to abstain from the commission of offences under the Opium Act, 1878.

(*See* section 9C.)

Whereas I (name)
inhabitant of (place)
have been called upon to enter into a bond to abstain from the commission of offences under section 9, section 9A and section 9B of the Opium Act, 1878, for the term of , I hereby bind myself not to commit any such offence during the said term, and, in case of my making default therein, I hereby bind myself to forfeit to His Majesty the sum of rupees

Dated this day of 19

(Signature).

(Where a bond with sureties is to be executed, *add*)

We do hereby declare ourselves sureties for the above-named that he will abstain from the commission of offences under section 9, section 9A and section 9B of the Opium Act, 1878, during the said term ; and in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the sum of rupees

Dated this day of 19

(Signature).

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XIII OF 1947]

(As read for the third time and passed by the Legislative Assembly on the 10th March 1947.)

(As read for the third time and passed with amendments by the Legislative Council on the 22nd March 1947.)

(Amendments made by the Legislative Council were agreed to by the Legislative Assembly on the 3rd April 1947.)

A Bill to amend the Opium Act, 1878, in its application to the Province of Bombay.

[Mr. L. M. PATIL, M.L.A.]

D's Bk Hb 5—2

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PART IV

1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

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The following Act of the Bombay Legislature having been assented to by the Governor General on the 23rd May 1947 is hereby published for general information.

P. M. LAD,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XXIX OF 1947.

(First published, after having received the assent of the Governor General, in the "Bombay Government Gazette" on the 29th May 1947.)

An Act to amend the Bombay Abkari Act, 1878.

WHEREAS it is expedient in the interest of the Province of Bombay to introduce, promote, enforce and carry into effect the policy of prohibition;

AND WHEREAS it is necessary to repeal the Bombay Abkari (Amendment) Act, 1940, and the Bombay Abkari (Second Amendment) Act, 1941, and to re-enact certain provisions thereof and to repeal the Bombay Abkari (Amendment) Act, 1941, and to amend the Bombay Abkari Act, 1878, for carrying out the said purposes; It is hereby enacted as follows:—

Bom. VI of 1940. Bom. XV of 1941. Bom. IX of 1941. Bom. V of 1878.

1. This Act may be called the Bombay Abkari (Amendment) Act, 1947. Short title.

2. The Bombay Abkari (Amendment) Act, 1940, the Bombay Abkari (Amendment) Act, 1941, and the Bombay Abkari (Second Amendment) Act, 1941, are hereby repealed. Repeal of Bom. VI of 1940, Bom. IX of 1941 and Bom. XV of 1941.

Bom. VI of 1940. Bom. IX of 1941. Bom. XV of 1941.

3. Sections 2 to 6 (both inclusive) of the Bombay Abkari (Amendment) Act, 1940, and sections 2 to 9 (both inclusive) of the Bombay Abkari (Second Amendment) Act, 1941, are hereby re-enacted. Re-enactment of certain provisions of Bom. VI of 1940 and Bom. XV of 1941.

Bom. VI of 1940. Bom. XV of 1941.

Amendment of section 3 of Bom. V of 1878.

4. In section 3 of the Bombay Abkari Act, 1878, (hereinafter called the said Act), after clause (*6*) the following shall be inserted, namely :— Bom. V of 1878.

"(*6a*) 'nira' means toddy in its unfermented state."

Amendment of section 9 of Bom. V of 1878.

5. Sub-section (*3*) of section 9 of the said Act shall be deleted.

Amendment of section 11 of Bom. V of 1878.

6. To section 11 of the said Act, the following shall be added, namely :—

"(*c*) regulate or prohibit the possession, use or sale of any intoxicant or of hemp."

Amendment of section 12 of Bom. V of 1878.

7. Clause (*i*) of the proviso to section 12 of the said Act shall be deleted.

Amendment of section 16 of Bom. V of 1878.

8. In the proviso to sub-section (*1*) of section 16 of the said Act, in clause (*1*) the word "or" where it occurs for the second time and clause (*3*) shall be deleted.

Amendment of section 17A of Bom. V of 1878.

9. In section 17A of the said Act, for the word "fourteen" the word "twenty-one" shall be substituted.

Deletion of section 18A of Bom. V of 1878.

10. Section 18A of the said Act shall be deleted.

Amendment of section 35 of Bom. V of 1878.

11. To sub-section (*2*) of section 35 of the said Act, the following shall be added, namely :—

"(*j*) prohibiting the printing, publishing or otherwise displaying or distributing any advertisement or other matter commending, soliciting the use of, or offering any intoxicant or calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act or to commit a breach or evade the provisions of any rule or order made thereunder, or the conditions of any license, permit or pass obtained thereunder;

(*k*) prohibiting within the Province the circulation, distribution or sale of any newspaper, book, leaflet, booklet, or other publication printed and published outside the Province which contains any advertisement or matter of the nature described in clause (*j*);

(*l*) declaring any newspaper, book, leaflet, booklet or other publication wherever printed or published containing any advertisement or matter commending, soliciting the use of, or offering any intoxicant to be forfeited to His Majesty;

(*m*) implementing generally the policy of prohibition."

Insertion of new section 35B in Bom. V of 1878.

12. After section 35A of the said Act, the following new section shall be inserted, namely :—

Power to obtain information.

"35B. (*1*) Any Commissioner or Collector or any other Abkari Officer specially empowered in this behalf may by order require any person to furnish to any specified authority or person any such information in his possession concerning any intoxicant, hemp or mhowra flowers as may be specified in the order.

(*2*) If any person fails to furnish any information in compliance with the order made under sub-section (*1*) or furnishes false information he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500."

Substitution of new section for section 39A of Bom. V of 1878.

13. For section 39A of the said Act, the following shall be substituted, namely :—

Duty of certain persons to give information.

"39A. Whenever any intoxicant is manufactured or possessed or any materials, still, utensil, implement or apparatus for the manufacture of any intoxicant are used, kept or possessed, or any hemp is cultivated, collected or possessed on any land or in any building in contravention of the provisions of this Act or of any rule or order made thereunder, every owner or occupier of such land or building and his agent shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to an officer of the Departments of Abkari, Police or Revenue as soon as the same shall come to his knowledge."

Amendment of section 43 of Bom. V of 1878.

14. In section 43 of the said Act, in sub-section (*1*), in clause (*a*), for the words "or possesses" the words ", possesses or uses" shall be substituted and in the said sub-section (*1*) for the words beginning with the words "shall, on conviction," and ending with the words "or with both", and in sub-section (*2*) for the words beginning with the words "shall be punished" and ending with the words "with both", the following shall be substituted, namely :—

"shall, on conviction, be punishable—

(*i*) for a first offence with imprisonment for a term which may extend to six months and with fine which may extend to Rs. 1,000 :

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than Rs. 500 ;

(*ii*) for a second offence with imprisonment which may extend to two years and with fine which may extend to Rs. 2,000 :

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than Rs. 1,000;

(*iii*) for a third or subsequent offence with imprisonment which may extend to two years and with fine which may extend to Rs. 2,000:

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than nine months and fine shall not be less than Rs. 1,000."

Insertion of new sections 43A, 43B, 43C and 43D in Bom. V of 1878.

15. After section 43 of the said Act, the following new sections shall be inserted, namely:—

Penalty for rendering or attempting to render denatured spirits fit for human consumption.

"43A. Whoever renders or attempts to render fit for human consumption any spirit whether manufactured in British India or not which has been denatured or has in his possession any spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall, on conviction, be punishable with imprisonment which may extend to one year and with fine which may extend to Rs. 1,000.

Attempts and abetments.

43B. (*1*) Whoever attempts to commit any offence punishable under this Act, or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence, shall on conviction, be punishable with the punishment provided for the offence.

(*2*) Whoever abets an offence punishable under this Act shall, on conviction, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, be punishable with the punishment provided for the offence. XLV of 1860.

Security for abstaining from commission of certain offences.

43C. (*1*) Whenever any person is convicted of an offence punishable under section 43, 43A or 43B and the Court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under those sections, the Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period not exceeding three years, as it thinks fit to fix.

(*2*) The bond shall be in the form contained in the Schedule hereto annexed and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as may be, apply to all matters connected with such bond as if it V of 1898.

were a bond to keep the peace ordered to be executed under section 106 of the said Code.

(3) If the conviction is set aside on appeal or in revision the bond so executed shall become void.

(4) An order under this section may also be made by an appellate Court, or by the High Court when exercising its powers of revision.

V of 1898.

43D.—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Presidency Magistrate or any Magistrate of the First Class to pass a sentence of fine exceeding Rs. 1,000 on any person convicted of contravening the provisions of section 43 or 43B." Special provision regarding fine.

16. In section 45A of the said Act, for the word "two" the word "five" shall be substituted. Amendment of section 45A of Bom. V of 1878.

17. In section 46 of the said Act, for the words "with fine which may extend to five hundred rupees or with imprisonment which may extend to three months, or with both" the following shall be substituted :— Amendment of section 46 of Bom. V of 1878.

"with imprisonment for a term which may extend to six months and with fine which may extend to Rs. 1,000."

18. After section 53 of the said Act, the following new section shall be inserted :— Insertion of new section 53A in Bom. V of 1878.

"53A. In prosecutions under section 43A it shall be presumed without further evidence until the contrary is proved, that the accused person has committed an offence under that section in respect of any denatured spirit which has been or attempted to be rendered fit for human consumption." Presumption as to commission of offence under section 43A.

19. In section 54 of the said Act,— Amendment of section 54 of Bom. V of 1878.

(a) for clause (b) the following shall be substituted, namely :—

"(b) any intoxicant, hemp, or mhowra flowers lawfully imported, transported, manufactured, possessed or sold which are found along with or in addition to that in respect of which the offence has been committed,";

(b) in clause (c), for the words, brackets and letters "liable to confiscation under clause (a) or clause (b)" the words "in respect of which the offence has been committed" shall be substituted; and

(c) for the words "shall be liable to confiscation" the words "shall be confiscated" shall be substituted.

Amendment of section 55 of Bom. V of 1878.

20. In section 55 of the said Act,—

(*a*) sub-section (*1*) shall be deleted; and

(*b*) in the proviso to sub-section (*2*) the word "intended" shall be deleted.

Amendment of section 55A of Bom. V of 1878.

21. In section 55A of the said Act, the figures "43" and the figures and word "43 or" shall be deleted.

Insertion of new section 57 in Bom. V of 1878.

22. After section 56 of the said Act, the following new section shall be inserted, namely :—

Powers of Police officers to search, seize, etc.

"57. Any police officer may seize any newspaper, book, leaflet, booklet or other publication declared forfeited to His Majesty, wherever found in the Province, or any other article or thing in respect of which a contravention of any of the provisions of this Act, rule, order, notification, licence or permit has been committed and any Magistrate may by warrant authorise any police officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such book, leaflet, booklet or other publication or article or thing may be or may be reasonably suspected to be. Every warrant issued under this section shall be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898." V of 1898.

Deletion of section 61 of Bom. V of 1878.

23. Section 61 of the said Act shall be deleted.

Amendment of section 62 of Bom. V of 1878.

24. In section 62 of the said Act, after the words "prohibit the" the words "manufacture or" shall be inserted.

Addition of Schedule to Bom. V of 1878.

25. To the said Act, the following Schedule shall be added, namely :—

"SCHEDULE

Bond to abstain from the commission of offences under the Bombay Abkari Act, 1878.

(*See* section 43C.)

Whereas I (name)
inhabitant of (place)
have been called upon to enter into a bond to abstain from the commission of offences under section 43, section 43A and section 43B of the Bombay Abkari Act, 1878, for the term of , I hereby bind myself not to commit any such offence during the said term, and, in case

of my making default therein, I hereby bind myself to forfeit to His Majesty the sum of rupees

Dated this day of 19

(Signature)

(Where a bond with sureties is to be executed, *add*).

We do hereby declare ourselves sureties for the above named that he will abstain from the commission of offences under section 43, section 43A, and section 43B of the Bombay Abkari Act, 1878, during the said term and in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty, the sum of rupees

Dated this day of 19 .

(Signature)

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XII OF 1947.

A Bill to amend the Bombay Abkari Act, 1878.

(As read for the third time and passed by the Legislative Assembly on the 10th March 1947.)

WHEREAS it is expedient in the interest of the Province of Bombay to introduce, promote, enforce and carry into effect the policy of prohibition;

Bom. VI of 1940. Bom. XV of 1941. Bom. IX of 1941. Bom. V of 1878.

AND WHEREAS it is necessary to repeal the Bombay Abkari (Amendment) Act, 1940, and the Bombay Abkari (Second Amendment) Act, 1941, and to re-enact certain provisions thereof and to repeal the Bombay Abkari (Amendment) Act, 1941, and to amend the Bombay Abkari Act, 1878, for carrying out the said purposes; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Abkari (Amendment) Act, 1947.

Repeal of Bom. VI of 1940, Bom. IX of 1941 and Bom. XV of 1941.

Bom. VI of 1940. Bom. IX of 1941. Bom. XV of 1941.

2. The Bombay Abkari (Amendment) Act, 1940, the Bombay Abkari (Amendment) Act, 1941, and the Bombay Abkari (Second Amendment) Act, 1941, are hereby repealed.

Re-enactment of certain provisions of Bom. VI of 1940 and Bom. XV of 1941.

Bom. VI of 1940. Bom. XV of 1941.

3. Sections 2 to 6 (both inclusive) of the Bombay Abkari (Amendment) Act, 1940, and sections 2 to 9 (both inclusive) of the Bombay Abkari (Second Amendment) Act, 1941, are hereby re-enacted.

Amendment of section 3 of Bom. V of 1878.

Bom. V of 1878.

4. In section 3 of the Bombay Abkari Act, 1878, (hereinafter called the said Act), after clause (*6*) the following shall be inserted, namely :—

"(*6a*) 'nira' means toddy in its unfermented state."

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Amendment of section 9 of Bom. V of 1878.

5. Sub-section (*3*) of section 9 of the said Act shall be deleted.

Amendment of section 11 of Bom. V of 1878.

6. To section 11 of the said Act, the following shall be added, namely :—

"(*c*) regulate or prohibit the possession, use or sale of any intoxicant or of hemp."

Amendment of section 12 of Bom. V of 1878.

7. Clause (*i*) of the proviso to section 12 of the said Act shall be deleted.

Amendment of section 16 of Bom. V of 1878.

8. In the proviso to sub-section (*1*) of section 16 of the said Act, in clause (*1*) the word "or" where it occurs for the second time and clause (*3*) shall be deleted.

Amendment of section 17A of Bom. V of 1878.

9. In section 17A of the said Act, for the word "fourteen" the word "twenty-one" shall be substituted.

Deletion of section 18A of Bom. V of 1878.

10. Section 18A of the said Act shall be deleted.

Amendment of section 35 of Bom. V of 1878.

11. To sub-section (*2*) of section 35 of the said Act, the following shall be added, namely :—

"(*j*) prohibiting the printing, publishing or otherwise displaying or distributing any advertisement or other matter commending, soliciting the use of, or offering any intoxicant or calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act or to commit a breach or evade the provisions of any rule or order made thereunder, or the conditions of any license, permit or pass obtained thereunder ;

(*k*) prohibiting within the Province the circulation, distribution or sale of any newspaper, book, leaflet, booklet, or other publication printed and published outside the Province which contains any advertisement or matter of the nature described in clause (*j*) ;

(*l*) declaring any newspaper, book, leaflet, booklet or other publication wherever printed or published containing any advertisement or matter commending, soliciting the use of, or offering any intoxicant to be forfeited to His Majesty ;

(*m*) implementing generally the policy of prohibition."

12. After section 35A of the said Act, the following new section shall be inserted, namely :— Insertion of new section 35B in Bom. V of 1878.

" 35B. (*1*) Any Commissioner or Collector or any other Abkari Officer specially empowered in this behalf may by order require any person to furnish to any specified authority or person any such information in his possession concerning any intoxicant, hemp or mhowra flowers as may be specified in the order. Power to obtain information.

(*2*) If any person fails to furnish any information in compliance with the order made under sub-section (*1*) or furnishes false information he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500."

13. For section 39A of the said Act, the following shall be substituted, namely :— Substitution of new section for section 39A of Bom. V of 1878.

" 39A. Whenever any intoxicant is manufactured or possessed or any materials, still, utensil, implement or apparatus for the manufacture of any intoxicant are used, kept or possessed, or any hemp is cultivated, collected or possessed on any land or in any building in contravention of the provisions of this Act or of any rule or order made thereunder, every owner or occupier of such land or building and his agent shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to an officer of the Departments of Abkari, Police or Revenue as soon as the same shall come to his knowledge." Duty of certain persons to give information.

14. In section 43 of the said Act, in sub-section (*1*) for the words beginning with the words " shall, on conviction," and ending with the words " or with both ", and in sub-section (*2*) for the words beginning with the words " shall be punished " and ending with the words " with both ", the following shall be substituted, namely :— Amendment of section 43 of Bom. V of 1878.

" shall, on conviction, be punishable—

(*i*) for a first offence with imprisonment for a term which may extend to six months and with fine which may extend to Rs. 1,000 :

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than Rs. 500 ;

(*ii*) for a second offence with imprisonment which may extend to two years and with fine which may extend to Rs. 2,000 :

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than Rs. 1,000;

(*iii*) for a third or subsequent offence with imprisonment which may extend to two years and with fine which may extend to Rs. 2,000:

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than nine months and fine shall not be less than Rs. 1,000."

Insertion of new sections 43A, 43B, 43C and 43D in Bom. V of 1878.

15. After section 43 of the said Act, the following new sections shall be inserted, namely:—

Penalty for rendering or attempting to render denatured spirits fit for human consumption.

"43A. Whoever renders or attempts to render fit for human consumption any spirit whether manufactured in British India or not which has been denatured or has in his possession any spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall, on conviction, be punishable with imprisonment which may extend to one year and with fine which may extend to Rs. 1,000.

Attempts and abetments.

43B. (*1*) Whoever attempts to commit any offence punishable under this Act, or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence, shall, on conviction, be punishable with the punishment provided for the offence.

(*2*) Whoever abets an offence punishable under this Act shall, on conviction, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, be punishable with the punishment provided for the offence. XLV of 1860.

Security for abstaining from commission of certain offences.

43C. (*1*) Whenever any person is convicted of an offence punishable under section 43, 43A or 43B and the Court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under those sections, the Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period not exceeding three years, as it thinks fit to fix.

(*2*) The bond shall be in the form contained in the Schedule hereto annexed and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as may be, apply to all matters connected with such bond as if it V of 1898.

were a bond to keep the peace ordered to be executed under section 106 of the said Code.

(*3*) If the conviction is set aside on appeal or in revision the bond so executed shall become void.

(*4*) An order under this section may also be made by an appellate Court, or by the High Court when exercising its powers of revision.

Special provision regarding fine.

43D. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Presidency Magistrate or any Magistrate of the First Class to pass a sentence of fine exceeding Rs. 1,000 on any person convicted of contravening the provisions of section 43 or 43B."

Act V of 1898.

Amendment of section 45A of Bom. V of 1878.

16. In section 45A of the said Act, for the word "two" the word "five" shall be substituted.

Amendment of section 46 of Bom. V of 1878.

17. In section 46 of the said Act, for the words "with fine which may extend to five hundred rupees or with imprisonment which may extend to three months, or with both" the following shall be substituted :—

"with imprisonment for a term which may extend to six months and with fine which may extend to Rs. 1,000."

Insertion of new section 53A in Bom. V of 1878.

18. After section 53 of the said Act, the following new section shall be inserted :—

Presumption as to commission of offence under section 43A.

"53A. In prosecutions under section 43A it shall be presumed without further evidence until the contrary is proved, that the accused person has committed an offence under that section in respect of any denatured spirit which has been or attempted to be rendered fit for human consumption."

Amendment of section 54 of Bom. V of 1878.

19. In section 54 of the said Act,—

(*a*) for clause (*b*) the following shall be substituted, namely :—

"(*b*) any intoxicant, hemp, or mhowra flowers lawfully imported, transported, manufactured, possessed or sold which are found along with or in addition to that in respect of which the offence has been committed,";

(*b*) in clause (*c*), for the words, brackets and letters "liable to confiscation under clause (*a*) or clause (*b*)" the words "in respect of which the offence has been committed" shall be substituted ; and

(*c*) for the words "shall be liable to confiscation" the words "shall be confiscated" shall be substituted.

Amendment of section 55 of Bom. V of 1878.

20. In section 55 of the said Act,—

(*a*) sub-section (*1*) shall be deleted; and

(*b*) in the proviso to sub-section (*2*) the word "intended" shall be deleted.

Amendment of section 55A of Bom. V of 1878.

21. In section 55A of the said Act, the figures "43" and the figures and word "43 or" shall be deleted.

Insertion of new section 57 in Bom. V of 1878.

22. After section 56 of the said Act, the following new section shall be inserted, namely :—

Powers of Police officers to search, seize, etc.

"57. Any police officer may seize any newspaper, book, leaflet, booklet or other publication declared forfeited to His Majesty, wherever found in the Province, or any other article or thing in respect of which a contravention of any of the provisions of this Act, rule, order, notification, licence or permit has been committed and any Magistrate may by warrant authorise any police officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such book, leaflet, booklet or other publication or article or thing may be or may be reasonably suspected to be. Every warrant issued under this section shall be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898." V of 1898.

Deletion of section 61 of Bom. V of 1878.

23. Section 61 of the said Act shall be deleted.

Amendment of section 62 of Bom. V of 1878.

24. In section 62 of the said Act, after the words "prohibit the" the words "manufacture or" shall be inserted.

Addition of Schedule to Bom. V of 1878.

25. To the said Act, the following Schedule shall be added, namely :—

"SCHEDULE

Bond to abstain from the Commission of offences under the Bombay Abkari Act, 1878.

(*See* section 43C.)

Whereas I (name)
inhabitant of (place)
have been called upon to enter into a bond to abstain from the commission of offences under section 43, section 43A and section 43B of the Bombay Abkari Act, 1878, for the term of , I hereby bind myself not to commit any such offence during the said term, and, in case

of my making default therein, I hereby bind myself to forfeit to His Majesty the sum of rupees

Dated this day of 19

(Signature)

(Where a bond with sureties is to be executed, *add*

We do hereby declare ourselves sureties for the above named that he will abstain from the commission of offences under section 43, section 43A, and section 43B of the Bombay Abkari Act, 1878, during the said term and in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty, the sum of rupees

Dated this day of 19

(Signature

STATEMENT OF OBJECTS AND REASONS.

The existing provisions of the Bombay Abkari Act, 1878, are inadequate to enforce the restrictive and other measures, considered necessary during the period preparatory to complete prohibition. The penalties prescribed under the Act are also not sufficiently deterrent. It is therefore proposed to amend the Act to facilitate the enforcement of such measures successfully.

Bombay Acts VI of 1940 and XV of 1941 have been repealed and re-enacted and Bombay Act IX of 1941 has been repealed.

Dated 10th February 1947. L. M. PATIL.

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Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XII OF 194[illegible]

(As read for the third time and passed by the Legislative Assembly on the 10th March 1947.)

A Bill to amend the Bombay Abkari Act, 1878.

[Mr. L. M. PATIL, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XII OF 1947.

A Bill to amend the Bombay Abkari Act, 1878.

(As read for the third time and passed by the Legislative Assembly on the 10th March 1947.)

(As read for the third time and passed with amendment by the Legislative Council on the 22nd March 1947.)

WHEREAS it is expedient in the interest of the Province of Bombay to introduce, promote, enforce and carry into effect the policy of prohibition;

AND WHEREAS it is necessary to repeal the Bombay Abkari (Amendment) Act, 1940, and the Bombay Abkari (Second Amendment) Act, 1941, and to re-enact certain provisions thereof and to repeal the Bombay Abkari (Amendment) Act, 1941, and to amend the Bombay Abkari Act, 1878, for carrying out the said purposes; It is hereby enacted as follows :—

Bom. VI of 1940. Bom. XV of 1941. Bom. IX of 1941. Bom. V of 1878.

1. This Act may be called the Bombay Abkari (Amendment) Act, 1947. Short title.

Bom. VI of 1940. Bom. IX of 1941. Bom. XV of 1941.

2. The Bombay Abkari (Amendment) Act, 1940, the Bombay Abkari (Amendment) Act, 1941, and the Bombay Abkari (Second Amendment) Act, 1941, are hereby repealed. Repeal of Bom. VI of 1940, Bom. IX of 1941 and Bom. XV of 1941.

Bom. VI of 1940. Bom. XV of 1941.

3. Sections 2 to 6 (both inclusive) of the Bombay Abkari (Amendment) Act, 1940, and sections 2 to 9 (both inclusive) of the Bombay Abkari (Second Amendment) Act, 1941, are hereby re-enacted. Re-enactment of certain provisions of Bom. VI of 1940 and Bom. XV of 1941.

Bom. V of 1878.

4. In section 3 of the Bombay Abkari Act, 1878, (hereinafter called the said Act), after clause (*6*) the following shall be inserted, namely :— Amendment of section 3 of Bom. V of 1878.

"(*6a*) 'nira' means toddy in its unfermented state."

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Amendment of section 9 of Bom. V of 1878.

5. Sub-section (*3*) of section 9 of the said Act shall be deleted.

Amendment of section 11 of Bom V of 1878.

6. To section 11 of the said Act, the following shall be added, namely :—

"(*c*) regulate or prohibit the possession, use or sale of any intoxicant or of hemp."

Amendment of section 12 of Bom. V of 1878.

7. Clause (*i*) of the proviso to section 12 of the said Act shall be deleted.

Amendment of section 16 of Bom. V of 1878.

8. In the proviso to sub-section (*1*) of section 16 of the said Act, in clause (*1*) the word "or" where it occurs for the second time and clause (*3*) shall be deleted.

Amendment of section 17A of Bom. V of 1878.

9. In section 17A of the said Act, for the word "fourteen" the word "twenty-one" shall be substituted.

Deletion of section18A of Bom. V of 1878.

10. Section 18A of the said Act shall be deleted.

Amendment of section 35 of Bom. V of 1878.

11. To sub-section (*2*) of section 35 of the said Act, the following shall be added, namely :—

"(*j*) prohibiting the printing, publishing or otherwise displaying or distributing any advertisement or other matter commending, soliciting the use of, or offering any intoxicant or calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act or to commit a breach or evade the provisions of any rule or order made thereunder, or the conditions of any license, permit or pass obtained thereunder ;

(*k*) prohibiting within the Province the circulation, distribution or sale of any newspaper, book, leaflet, booklet, or other publication printed and published outside the Province which contains any advertisement or matter of the nature described in clause (*j*) ;

(*l*) declaring any newspaper, book, leaflet, booklet or other publication wherever printed or published containing any advertisement or matter commending, soliciting the use of, or offering any intoxicant to be forfeited to His Majesty ;

(*m*) implementing generally the policy of prohibition."

12. After section 35A of the said Act, the following new section shall be inserted, namely :— Insertion of new section 35B in Bom. V of 1878.

" 35B. (*1*) Any Commissioner or Collector or any other Abkari Officer specially empowered in this behalf may by order require any person to furnish to any specified authority or person any such information in his possession concerning any intoxicant, hemp or mhowra flowers as may be specified in the order. Power to obtain information.

(*2*) If any person fails to furnish any information in compliance with the order made under sub-section (*1*) or furnishes false information he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500."

13. For section 39A of the said Act, the following shall be substituted, namely :— Substitution of new section for section 39A of Bom. V of 1878.

" 39A. Whenever any intoxicant is manufactured or possessed or any materials, still, utensil, implement or apparatus for the manufacture of any intoxicant are used, kept or possessed, or any hemp is cultivated, collected or possessed on any land or in any building in contravention of the provisions of this Act or of any rule or order made thereunder, every owner or occupier of such land or building and his agent shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to an officer of the Departments of Abkari, Police or Revenue as soon as the same shall come to his knowledge." Duty of certain persons to give information.

14. In section 43 of the said Act, in sub-section (*1*), in clause (*a*), for the words " or possesses " the words ", possesses or uses " shall be substituted and in the said sub-section (*1*) for the words beginning with the words " shall, on conviction," and ending with the words " or with both ", and in sub-section (*2*) for the words beginning with the words " shall be punished " and ending with the words " with both ", the following shall be substituted, namely :— Amendment of section 43 of Bom. V of 1878.

" shall, on conviction, be punishable—

(*i*) for a first offence with imprisonment for a term which may extend to six months and with fine which may extend to Rs. 1,000 :

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than Rs. 500;

(*ii*) for a second offence with imprisonment which may extend to two years and with fine which may extend to Rs. 2,000 :

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than Rs. 1,000;

(*iii*) for a third or subsequent offence with imprisonment which may extend to two years and with fine which may extend to Rs. 2,000:

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than nine months and fine shall not be less than Rs. 1,000."

Insertion of new sections 43A, 43B, 43C and 43D in Bom. V of 1878.

15. After section 43 of the said Act, the following new sections shall be inserted, namely :—

Penalty for rendering or attempting to render denatured spirits fit for human consumption.

"43A. Whoever renders or attempts to render fit for human consumption any spirit whether manufactured in British India or not which has been denatured or has in his possession any spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall, on conviction, be punishable with imprisonment which may extend to one year and with fine which may extend to Rs. 1,000.

Attempts and abetments.

43B. (*1*) Whoever attempts to commit any offence punishable under this Act, or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence, shall, on conviction, be punishable with the punishment provided for the offence.

(*2*) Whoever abets an offence punishable under this Act shall, on conviction, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, be punishable with the punishment provided for the offence. XLV of 1860.

Security for abstaining from commission of certain offences.

43C. (*1*) Whenever any person is convicted of an offence punishable under section 43, 43A or 43B and the Court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under those sections, the Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period not exceeding three years, as it thinks fit to fix.

(*2*) The bond shall be in the form contained in the Schedule hereto annexed and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as may be, apply to all matters connected with such bond as if it V of 1898.

were a bond to keep the peace ordered to be executed under section 106 of the said Code.

(3) If the conviction is set aside on appeal or in revision the bond so executed shall become void.

(4) An order under this section may also be made by an appellate Court, or by the High Court when exercising its powers of revision.

Special provision regarding fine.

43D. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Presidency Magistrate or any Magistrate of the First Class to pass a sentence of fine exceeding Rs. 1,000 on any person convicted of contravening the provisions of section 43 or 43B."

V of 1898.

Amendment of section 45A of Bom. V of 1878.

16. In section 45A of the said Act, for the word "two" the word "five" shall be substituted.

Amendment of section 46 of Bom. V of 1878.

17. In section 46 of the said Act, for the words "with fine which may extend to five hundred rupees or with imprisonment which may extend to three months, or with both" the following shall be substituted :—

"with imprisonment for a term which may extend to six months and with fine which may extend to Rs. 1,000."

Insertion of new section 53A in Bom. V of 1878.

18. After section 53 of the said Act, the following new section shall be inserted :—

Presumption as to commission of offence under section 43A.

"53A. In prosecutions under section 43A it shall be presumed without further evidence until the contrary is proved, that the accused person has committed an offence under that section in respect of any denatured spirit which has been or attempted to be rendered fit for human consumption."

Amendment of section 54 of Bom. V of 1878.

19. In section 54 of the said Act,—

(*a*) for clause (*b*) the following shall be substituted, namely :—

"(*b*) any intoxicant, hemp, or mhowra flowers lawfully imported, transported, manufactured, possessed or sold which are found along with or in addition to that in respect of which the offence has been committed,";

(*b*) in clause (*c*), for the words, brackets and letters "liable to confiscation under clause (*a*) or clause (*b*)" the words "in respect of which the offence has been committed" shall be substituted ; and

(*c*) for the words "shall be liable to confiscation" the words "shall be confiscated" shall be substituted.

Amendment of section 55 of Bom. V of 1878.

20. In section 55 of the said Act,–

(*a*) sub-section (*1*) shall be deleted; and

(*b*) in the proviso to sub-section (*2*) the word "intended" shall be deleted.

Amendment of section 55A of Bom. V of 1878.

21. In section 55A of the said Act, the figures "43" and the figures and word "43 or" shall be deleted.

Insertion of new section 57 in Bom. V of 1878.

22. After section 56 of the said Act, the following new section shall be inserted, namely :—

Powers of Police officers to search, seize, etc.

"57. Any police officer may seize any newspaper, book, leaflet, booklet or other publication declared forfeited to His Majesty, wherever found in the Province, or any other article or thing in respect of which a contravention of any of the provisions of this Act, rule, order, notification, licence or permit has been committed and any Magistrate may by warrant authorise any police officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such book, leaflet, booklet or other publication or article or thing may be or may be reasonably suspected to be. Every warrant issued under this section shall be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898." V of 1898.

Deletion of section 61 of Bom. V of 1878.

23. Section 61 of the said Act shall be deleted.

Amendment of section 62 of Bom. V of 1878.

24. In section 62 of the said Act, after the words "prohibit the" the words "manufacture or" shall be inserted.

Addition of Schedule to Bom. V of 1878.

25. To the said Act, the following Schedule shall be added, namely :—

"SCHEDULE

Bond to abstain from the commission of offences under the Bombay Abkari Act, 1878.

(*See* section 43C.)

Whereas I (name)
inhabitant of (place)
have been called upon to enter into a bond to abstain from the commission of offences under section 43, section 43A and section 43B of the Bombay Abkari Act, 1878, for the term of , I hereby bind myself not to commit any such offence during the said term, and, in case

of my making default therein, I hereby bind myself to forfeit to His Majesty the sum of rupees .

Dated this day of 19 .

(Signature)

(Where a bond with sureties is to be executed, *add*).

We do hereby declare ourselves sureties for the above named that he will abstain from the commission of offences under section 43, section 43A, and section 43B of the Bombay Abkari Act, 1878, during the said term and in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty, the sum of rupees

Dated this day of 19 .

(Signature)."

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XII OF 1947.]

(As read for the third time and passed by the Legislative Assembly on the 10th March 1947.)

(As read for the third time and passed with amendment by the Legislative Council on the 22nd March 1947.)

A Bill to amend the Bombay Abkari Act, 1878.

[Mr. L. M. PATIL, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XII OF 1947.

A Bill to amend the Bombay Abkari Act, 1878.

(As read for the third time and passed by the Legislative Assembly on the 10th March 1947.)

(As read for the third time and passed with amendment by the Legislative Council on the 22nd March 1947.)

(Amendment made by the Legislative Council was agreed to by the Legislative Assembly on the 3rd April 1947.)

WHEREAS it is expedient in the interest of the Province of Bombay to introduce, promote, enforce and carry into effect the policy of prohibition;

AND WHEREAS it is necessary to repeal the Bombay Abkari (Amendment) Act, 1940, and the Bombay Abkari (Second Amendment) Act, 1941, and to re-enact certain provisions thereof and to repeal the Bombay Abkari (Amendment) Act, 1941, and to amend the Bombay Abkari Act, 1878, for carrying out the said purposes; It is hereby enacted as follows :—

Bom. VI of 1940. Bom. XV of 1941. Bom. IX of 1941. Bom. V of 1878.

1. This Act may be called the Bombay Abkari (Amendment) Act, 1947. Short title.

Bom. VI of 1940. Bom. IX of 1941. Bom. XV of 1941.

2. The Bombay Abkari (Amendment) Act, 1940, the Bombay Abkari (Amendment) Act, 1941, and the Bombay Abkari (Second Amendment) Act, 1941, are hereby repealed. Repeal of Bom. VI of 1940, Bom. IX of 1941 and Bom. XV of 1941.

Bom. VI of 1940. Bom. XV of 1941.

3. Sections 2 to 6 (both inclusive) of the Bombay Abkari (Amendment) Act, 1940, and sections 2 to 9 (both inclusive) of the Bombay Abkari (Second Amendment) Act, 1941, are hereby re-enacted. Re-enactment of certain provisions of Bom. VI of 1940 and Bom. XV of 1941.

Bom. V of 1878.

4. In section 3 of the Bombay Abkari Act, 1878, (hereinafter called the said Act), after clause (*6*) the following shall be inserted, namely :— Amendment of section 3 of Bom. V of 1878.

"(*6a*) 'nira' means toddy in its unfermented state."

MO-III Bk Hb 6—1

Amendment of section 9 of Bom. V of 1878.

5. Sub-section (*3*) of section 9 of the said Act shall be deleted.

Amendment of section 11 of Bom. V of 1878.

6. To section 11 of the said Act, the following shall be added, namely :—

"(*c*) regulate or prohibit the possession, use or sale of any intoxicant or of hemp."

Amendment of section 12 of Bom. V of 1878.

7. Clause (*i*) of the proviso to section 12 of the said Act shall be deleted.

Amendment of section 16 of Bom. V of 1878.

8. In the proviso to sub-section (*1*) of section 16 of the said Act, in clause (*1*) the word "or" where it occurs for the second time and clause (*3*) shall be deleted.

Amendment of section 17A of Bom. V of 1878.

9. In section 17A of the said Act, for the word "fourteen" the word "twenty-one" shall be substituted.

Deletion of section 18A of Bom. V of 1878.

10. Section 18A of the said Act shall be deleted.

Amendment of section 35 of Bom. V of 1878.

11. To sub-section (*2*) of section 35 of the said Act, the following shall be added, namely :—

"(*j*) prohibiting the printing, publishing or otherwise displaying or distributing any advertisement or other matter commending, soliciting the use of, or offering any intoxicant or calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act or to commit a breach or evade the provisions of any rule or order made thereunder, or the conditions of any license, permit or pass obtained thereunder ;

(*k*) prohibiting within the Province the circulation, distribution or sale of any newspaper, book, leaflet, booklet, or other publication printed and published outside the Province which contains any advertisement or matter of the nature described in clause (*j*) ;

(*l*) declaring any newspaper, book, leaflet, booklet or other publication wherever printed or published containing any advertisement or matter commending, soliciting the use of, or offering any intoxicant to be forfeited to His Majesty ;

(*m*) implementing generally the policy of prohibition."

12. After section 35A of the said Act, the following new section shall be inserted, namely :— Insertion of new section 35B in Bom. V of 1878.

" 35B. (*1*) Any Commissioner or Collector or any other Abkari Officer specially empowered in this behalf may by order require any person to furnish to any specified authority or person any such information in his possession concerning any intoxicant, hemp or mhowra flowers as may be specified in the order. Power to obtain information.

(*2*) If any person fails to furnish any information in compliance with the order made under sub-section (*1*) or furnishes false information he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500."

13. For section 39A of the said Act, the following shall be substituted, namely :— Substitution of new section for section 39A of Bom. V of 1878.

" 39A. Whenever any intoxicant is manufactured or possessed or any materials, still, utensil, implement or apparatus for the manufacture of any intoxicant are used, kept or possessed, or any hemp is cultivated, collected or possessed on any land or in any building in contravention of the provisions of this Act or of any rule or order made thereunder, every owner or occupier of such land or building and his agent shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to an officer of the Departments of Abkari, Police or Revenue as soon as the same shall come to his knowledge." Duty of certain persons to give information.

14. In section 43 of the said Act, in sub-section (*1*), in clause (*a*), for the words " or possesses " the words ", possesses or uses " shall be substituted and in the said sub-section (*1*) for the words beginning with the words " shall, on conviction," and ending with the words " or with both ", and in sub-section (*2*) for the words beginning with the words " shall be punished " and ending with the words " with both ", the following shall be substituted, namely :— Amendment of section 43 of Bom. V of 1878.

" shall, on conviction, be punishable—

(*i*) for a first offence with imprisonment for a term which may extend to six months and with fine which may extend to Rs. 1,000 :

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than Rs. 500 ;

(*ii*) for a second offence with imprisonment which may extend to two years and with fine which may extend to Rs. 2,000 :

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than Rs. 1,000;

(*iii*) for a third or subsequent offence with imprisonment which may extend to two years and with fine which may extend to Rs. 2,000:

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than nine months and fine shall not be less than Rs. 1,000."

Insertion of new sections 43A, 43B, 43C and 43D in Bom. V of 1878.

15. After section 43 of the said Act, the following new sections shall be inserted, namely :—

Penalty for rendering or attempting to render denatured spirits fit for human consumption.

"43A. Whoever renders or attempts to render fit for human consumption any spirit whether manufactured in British India or not which has been denatured or has in his possession any spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall, on conviction, be punishable with imprisonment which may extend to one year and with fine which may extend to Rs. 1,000.

Attempts and abetments.

43B. (*1*) Whoever attempts to commit any offence punishable under this Act, or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence, shall, on conviction, be punishable with the punishment provided for the offence.

(2) Whoever abets an offence punishable under this Act shall, on conviction, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, be punishable with the punishment provided for the offence. XLV of 1860.

Security for abstaining from commission of certain offences.

43C. (*1*) Whenever any person is convicted of an offence punishable under section 43, 43A or 43B and the Court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under those sections, the Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period not exceeding three years, as it thinks fit to fix.

(2) The bond shall be in the form contained in the Schedule hereto annexed and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as may be, apply to all matters connected with such bond as if it V of 1898.

were a bond to keep the peace ordered to be executed under section 106 of the said Code.

(3) If the conviction is set aside on appeal or in revision the bond so executed shall become void.

(4) An order under this section may also be made by an appellate Court, or by the High Court when exercising its powers of revision.

Special provision regarding fine.

43D. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Presidency Magistrate or any Magistrate of the First Class to pass a sentence of fine exceeding Rs. 1,000 on any person convicted of contravening the provisions of section 43 or 43B."

V of 1898.

Amendment of section 45A of Bom. V of 1878.

16. In section 45A of the said Act, for the word " two " the word " five " shall be substituted.

Amendment of section 46 of Bom. V of 1878.

17. In section 46 of the said Act, for the words " with fine which may extend to five hundred rupees or with imprisonment which may extend to three months, or with both " the following shall be substituted :—

" with imprisonment for a term which may extend to six months and with fine which may extend to Rs. 1,000."

Insertion of new section 53A in Bom. V of 1878.

18. After section 53 of the said Act, the following new section shall be inserted :—

Presumption as to commission of offence under section 43A.

" 53A. In prosecutions under section 43A it shall be presumed without further evidence until the contrary is proved, that the accused person has committed an offence under that section in respect of any denatured spirit which has been or attempted to be rendered fit for human consumption."

Amendment of section 54 of Bom. V of 1878.

19. In section 54 of the said Act,—

(*a*) for clause (*b*) the following shall be substituted, namely :—

" (*b*) any intoxicant, hemp, or mhowra flowers lawfully imported, transported, manufactured, possessed or sold which are found along with or in addition to that in respect of which the offence has been committed, " ;

(*b*) in clause (*c*), for the words, brackets and letters "liable to confiscation under clause (*a*) or clause (*b*) " the words " in respect of which the offence has been committed " shall be substituted ; and

(*c*) for the words " shall be liable to confiscation " the words " shall be confiscated " shall be substituted.

Amendment of section 55 of Bom. V of 1878.

20. In section 55 of the said Act,—

(*a*) sub-section (*1*) shall be deleted; and

(*b*) in the proviso to sub-section (*2*) the word "intended" shall be deleted.

Amendment of section 55A of Bom. V of 1878.

21. In section 55A of the said Act, the figures "43" and the figures and word "43 or" shall be deleted.

Insertion of new section 57 in Bom. V of 1878.

22. After section 56 of the said Act, the following new section shall be inserted, namely :—

Powers of Police officers to search, seize, etc.

"57. Any police officer may seize any newspaper, book, leaflet, booklet or other publication declared forfeited to His Majesty, wherever found in the Province, or any other article or thing in respect of which a contravention of any of the provisions of this Act, rule, order, notification, licence or permit has been committed and any Magistrate may by warrant authorise any police officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such book, leaflet, booklet or other publication or article or thing may be or may be reasonably suspected to be. Every warrant issued under this section shall be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898." V of 1898.

Deletion of section 61 of Bom. V of 1878.

23. Section 61 of the said Act shall be deleted.

Amendment of section 62 of Bom. V of 1878.

24. In section 62 of the said Act, after the words "prohibit the" the words "manufacture or" shall be inserted.

Addition of Schedule to Bom. V of 1878.

25. To the said Act, the following Schedule shall be added, namely :—

"SCHEDULE

Bond to abstain from the commission of offences under the Bombay Abkari Act, 1878.

(*See* section 43C.)

Whereas I (name)
inhabitant of (place)
have been called upon to enter into a bond to abstain from the commission of offences under section 43, section 43A and section 43B of the Bombay Abkari Act, 1878, for the term of , I hereby bind myself not to commit any such offence during the said term, and, in case

of my making default therein, I hereby bind myself to forfeit to His Majesty the sum of rupees

Dated this day of 19 .

(Signature)

(Where a bond with sureties is to be executed, *add*).

We do hereby declare ourselves sureties for the above named that he will abstain from the commission of offences under section 43, section 43A, and section 43B of the Bombay Abkari Act, 1878, during the said term and in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty, the sum of rupees

Dated this day of 19

(Signature)."

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XII OF 1947.]

(As read for the third time and passed by the Legislative Assembly on the 10th March 1947.)

(As read for the third time and passed with amendment by the Legislative Council on the 22nd March 1947.)

(Amendment made by the Legislative Council was agreed to by the Legislative Assembly on the 3rd April 1947.)

A Bill to amend the Bombay Abkari [illegible], 1878.

[Mr. L. M. Patil, M.L.A.]

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

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BOMBAY ACT No. XXVI OF 1947—An Act to amend the Opium Act, 1878, in its application to the Province of Bombay	251-254

The following Act of the Bombay Legislature having been assented to by the Governor-General on the 17th May 1947 is hereby published for general information.

P. M. LAD,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No XXVI OF 1947.

(First published, after having received the assent of the Governor General, in the "Bombay Government Gazette" on the 21st May 1947.)

An Act to amend the Opium Act, 1878, in its application to the Province of Bombay.

WHEREAS it is expedient in the interest of the Province of Bombay to introduce, promote, enforce and carry into effect the policy of prohibition;

AND WHEREAS it is necessary to amend the Opium Act, 1878, in its application to the Province of Bombay for carrying out the said purposes; It is hereby enacted as follows:— I of 1878.

1. This Act may be called the Opium (Bombay Amendment) Act, 1947. Short title.

2. After section 3 of the Opium Act, 1878 (hereinafter referred to as the said Act), the following new section shall be inserted, namely:— Insertion of new section 3A in Act I of 1878.

"3A. (1) When opium has been imported, exported, transported, sold or is possessed by any person on account of any other person and such other person knows or has reason to believe that such import, export, transport, sale or possession is on his account the opium shall, for the purposes of this Act, be deemed to Import, export, etc. of opium by one person on account of another.

have been imported, exported, transported or sold by, or to be in possession of, such other person.

(2) Nothing in sub-section (1) shall absolve any person who imports, exports, transports, sells or possesses opium on account of another person, from liability to any punishment under this Act for the unlawful import, export, transport, sale or possession of the opium."

Amendment of section 5 of Act I of 1878.

3. In section 5 of the said Act—

(*i*) for the words "permit absolutely or" the words "prohibit or permit" shall be substituted;

(*ii*) in clause (*a*) after the word "possession" insert "or use";

(*iii*) delete the word 'and' at the end of clause (*c*);

(*iv*) after clause (*d*), insert the following, namely :—

"(*e*) the carrying out generally of the policy of prohibition."

Amendment of section 9 of Act I of 1878.

4. In section 9 of the said Act,—

(*i*) in clause (*a*), after the word "possesses" the words "or uses" shall be inserted; and

(*ii*) for the portion beginning with the words "shall, on conviction" and ending with the words "have been sentenced" the following shall be substituted, namely :—

"shall, on conviction, be punishable—

(*i*) for a first offence with imprisonment for a term which may extend to six months and with fine which may extend to Rs. 1,000 :

Provided that in the absence of special reasons to the contrary mentioned in the judgment of the court, such imprisonment shall not be less than three months and fine shall not be less than Rs. 500 ;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to Rs. 2,000 :

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than six months and fine shall not be less than Rs. 1,000 ;

(*iii*) for a third or subsequent offence, with imprisonment for a term which may extend to two years and with fine which may extend to Rs. 2,000 :

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than nine months and fine shall not be less than Rs. 1,000."

Insertion of new sections 9A, 9B, 9C and 9D in Act I of 1878.

5. After section 9 of the said Act, the following sections shall be inserted, namely :—

Punishment for allowing premises to be used for commission of offence.

"9A. Whoever, being the owner or occupier or having the use of any house, room, enclosure, space, vessel, vehicle, or place knowingly permits it to be used for the commission by any other person of an offence punishable under section 9 shall, on

conviction, be punishable with imprisonment for a term which may extend to two years and with fine which may extend to Rs. 2,000.

Attempts and abetments.

9B. (*1*) Whoever attempts to commit an offence punishable under this Act, or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence, shall, on conviction, be punishable with the punishment provided for the offence.

(*2*) Whoever abets an offence punishable under this Act, shall, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, on conviction, be punishable with the imprisonment provided for the offence.

XLV of 1860.

Security for abstaining from commission of certain offences.

9C. (*1*) Whenever any person is convicted of any offence punishable under section 9, 9A or 9B and the Magistrate convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under those sections, the Magistrate may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as the Magistrate thinks fit to fix.

(*2*) The bond shall be in the form contained in the Schedule hereto annexed and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as may be, apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of the said Code.

V of 1898.

(*3*) If the conviction is set aside on appeal or in revision, the bond so executed shall become void.

(*4*) An order under this section may also be made by an appellate Court, or by the High Court when exercising its powers of revision.

Special provision regarding fine.

9D. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Presidency Magistrate or any Magistrate of the First Class to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening the provisions of section 9 or 9A."

V of 1898.

Amendment of section 11 of Act I of 1878.

6. In section 11 of the said Act—

(*i*) for the words "liable to confiscation" where they occur for the first time, the word "confiscated" shall be substituted;

(*ii*) for the words "liable to confiscation" where they occur for the second time, the words "in respect of which the offence has been committed" shall be substituted; and

(*iii*) for the words "liable to confiscation" where they occur for the third time, the word "confiscated" shall be substituted.

Amendment of section 12 of Act I of 1878.

7. In section 12 of the said Act, the first and second paragraphs shall be deleted.

Insertion of new section 13A in Act I of 1878.

8. After section 13 of the said Act, the following new section shall be inserted, namely :—

Power to obtain information.

"13A. (*1*) The Provincial Government or any Officer specially empowered by it in this behalf may by order require any person to furnish to any specified authority or person any such information in his possession concerning any opium as may be specified in the order.

(*2*) If any person fails to furnish any information in compliance with the order made under sub-section (*1*) or furnishes false information, he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500."

Addition of Schedule to Act I of 1878.

9. To the said Act, the following Schedule shall be added :—

"SCHEDULE.

Bond to abstain from the commission of offences under the Opium Act, 1878.

(*See* section 9C.)

Whereas I (name)
inhabitant of (place)
have been called upon to enter into a bond to abstain from the commission of offences under section 9, section 9A and section 9B of the Opium Act, 1878, for the term of , I hereby bind myself not to commit any such offence during the said term, and, in case of my making default therein, I hereby bind myself to forfeit to His Majesty the sum of rupees

Dated this day of 19

(Signature).

(Where a bond with sureties is to be executed, *add*)

We do hereby declare ourselves sureties for the above-named that he will abstain from the commission of offences under section 9, section 9A and section 9B of the Opium Act, 1878, during the said term ; and in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the sum of rupees

Dated this day of 19

(Signature).

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